IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 137 OF 2007

MANISH SURYAKANT DHAKKA & ANR. .. PETITIONER

Versus

THE DY. SUPERINTENDENT OF PRISONS
YERWADA CENTRAL PRISON, PUNE & ANR. RESPONDENTS

Mrs. I.M. Koparkar for petitioner
Mr. A. S. Pai, APP

CORAM:-SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.
DATED:-20/2/2007

P.C.

. The petitioners are undergoing life imprisonment at the Yerwada Central Prison.

2. In this petition, they have prayed that Superintendent, Yerawada Central Prison, Pune be directed to consider the case of the petitioners for transfer to an open prison.

3. We have heard the learned counsel for the petitioner.

4. We are informed that the petitioners are in prison for 14 years. It appears from the averments

made in the petition that the petitioners are atpresent in charge of the prison department's factory and entrusted with huge responsibilities.

5. It appears that on 4/5/06 this court had directed that the petitioners be released on furlough, however, the petitioners could not avail of the furlough leave because they could not furnish security. The learned counsel for the petitioners states that in the circumstances, the petitioners may be ordered to be transferred to open prison.

6. The learned APP has drawn our attention to Maharashtra Prison Manual. She has particularly drawn our attention to Rule 3 of the Maharashtra Prisons Rules 1979.

7. It appears from this rule that whether the petitioners are to be transferred to the open prison or not is to be considered by a Selection Committee. We are informed that the petitioners' cases were placed before the Selection Committee and the Selection Committee has rejected their request for being transferred to open prison as according to the Selection Committee their cases

are covered by Rule 4(2)(h) of the said Rules.

8. The case of the respondents appears to be that the petitioners are escape risk. The learned APP on instructions from Mr. S. B. Patil, Jailer Group-I from Yerawada Central Prison, states that the Selection Committee is likely to hold its meeting in two to three months and the petitioners' cases will be reconsidered by it.

9. In view of the fact that the Selection Committee has rejected the petitioners' request for transfer to open prison, we are unable to direct his transfer to open prison. However, considering the fact that the petitioners are in prison for 14 long years; that there is no record to show that they have committed any prison offence, the Selection Committee may consider their case sympathetically and in accordance with law, if the escape risk is lessened because of passage of time.

10. Petition is disposed of in the aforestated terms.

JUDGE.

JUDGE.